

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
MARTINSBURG**

NORMAN KUH BANDER,

Plaintiff,

v.

**CIVIL ACTION NO.: 3:19-CV-167
(GROH)**

**JOHN DOE #1 AKA LIEUTENANT W. MOULTON,
JOHN DOE #2 AKA SEGREGATED HOUSING
UNIT LIEUTENANT, JOHN DOE #3, AKA
CAPTAIN YEAGER and RICHARD HUDGINS, FCI Gilmer,**

Defendants.

ORDER ADOPTING REPORT AND RECOMMENDATION

On this day, the above-styled matter came before the Court for consideration of the Report and Recommendation (“R&R”) of United States Magistrate Judge Robert W. Trumble. Pursuant to the Local Rules, this civil action was referred to Judge Trumble for submission of a proposed R&R. Magistrate Judge Trumble issued an R&R [ECF No. 84] on December 22, 2020. In the R&R, Judge Trumble recommends that the Plaintiff’s Complaint [ECF No. 1] be dismissed.

Pursuant to 28 U.S.C. § 636(b)(1)(C), this Court is required to make a *de novo* review of those portions of the magistrate judge’s findings to which objection is made. However, the Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. Thomas v. Arn, 474 U.S. 140, 150 (1985). Failure to file timely objections constitutes a waiver of *de novo* review and of a Plaintiff’s right to appeal this Court’s Order. 28 U.S.C. § 636(b)(1); Snyder v.


Ridenour, 889 F.2d 1363, 1366 (4th Cir. 1989); United States v. Schronce, 727 F.2d 91, 94 (4th Cir. 1984).

Objections to Magistrate Judge Trumble's R&R were due within fourteen plus three days of the Plaintiff being served with a copy of the same. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). Service was accepted by the *pro se* Plaintiff on January 4, 2021. ECF No. 85. Therefore, after allowing additional time for transit in the mail, the Court finds that the deadline for the Plaintiff to submit objections to the R&R has passed. No objections have been filed. Accordingly, this Court will review the R&R for clear error.

Upon careful review of the R&R, it is the opinion of this Court that Magistrate Judge Trumble's Report and Recommendation [ECF No. 84] should be, and is hereby, **ORDERED ADOPTED** for the reasons more fully stated therein. Therefore, the Defendants' Motion to Dismiss [ECF No. 56] is **GRANTED**, and the Plaintiff's Amended Complaint [ECF No. 52] is **DISMISSED WITH PREJUDICE** as to Defendants John Doe #2, also known as Segregation Housing Unit Lieutenant, John Doe #3, also known as Captain Yeager, and Robert Hudgins, FCI Gilmer. Further, the Plaintiff's Amended Complaint is **DISMISSED WITHOUT PREJUDICE** as to John Doe #1, also known as Lieutenant W. Moulton.

The Clerk of Court is **DIRECTED** to **DENY** any outstanding motions as **MOOT**. The Clerk is further **DIRECTED** to mail a copy of this Order to the Plaintiff by certified mail, return receipt requested, at his last known address as reflected on the docket sheet.

DATED: February 1, 2021


GINA M. GROH
CHIEF UNITED STATES DISTRICT JUDGE